

AMENDED IN SENATE JULY 3, 2003

AMENDED IN SENATE JUNE 26, 2003

AMENDED IN ASSEMBLY MAY 5, 2003

AMENDED IN ASSEMBLY APRIL 3, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 1337

Introduced by Assembly Member Daucher

February 21, 2003

An act to amend Section 56505.2 of, and to add Section 56366.10 to, the Education Code, relating to special education.

LEGISLATIVE COUNSEL'S DIGEST

AB 1337, as amended, Daucher. Special education.

~~(1) Existing law sets forth a method for providing special education and related services to pupils with exceptional needs. Existing law also permits, under certain circumstances, contracts to be entered for the provision of those services by nonpublic, nonsectarian schools or agencies, as defined. Existing law authorizes a master contract for special education and related services provided by a nonpublic, nonsectarian school or agency only if the school or agency has been certified as meeting specified standards. Existing law sets forth the certification process and procedures for the nonpublic, nonsectarian schools or agencies that seek certification.~~

~~This bill would provide that, notwithstanding any other provision of law, a school district, county office of education, or special education local plan area operating in accordance with an approved local plan has~~

~~met the state and federal standards for the provision of special education and related services that are, at a minimum, equal to the standards applicable to a certified nonpublic, nonsectarian school or agency.~~

~~(2) Existing law provides procedural safeguards, including due process hearings, for the resolution of complaints regarding alleged violations of the law relative to special education.~~ Existing law provides that a hearing officer may not render a decision that results in the placement of an individual with exceptional needs in a nonpublic, nonsectarian school, or in a service for an individual with exceptional needs provided by a nonpublic agency, if the school or agency has not been certified. Existing law requires a hearing officer to consider certain provisions of law relating to nonpublic, nonsectarian schools and agencies, including those relating to certification, during a due process hearing concerning an issue of placement of an individual with exceptional needs in a nonpublic, nonsectarian school or services for an individual with exceptional needs provided by a nonpublic, nonsectarian agency.

This bill would prohibit a hearing officer from rendering a decision that results in the placement or reimbursement for the placement of an individual with exceptional needs in a nonpublic, nonsectarian school, or in a service or reimbursement for a service for an individual with exceptional needs provided by a nonpublic, nonsectarian agency, if the school district, county office of education, or special education local plan area operates a special education program in accordance with an approved local plan, unless the ~~party seeking placement or service from a nonpublic, nonsectarian school or agency proves,~~ *hearing officer finds*, by a preponderance of the evidence, that ~~an appropriate~~ *the* public special education program or service is not available and the program ~~operated~~ *offered* by the school district, county office of education, or special education local plan area is not able to provide a free appropriate public education to the individual.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 ~~SECTION 1. Section 56366.10 is added to the Education~~
- 2 ~~Code, to read:~~
- 3 ~~56366.10. Notwithstanding any other provision of law, a~~
- 4 ~~district, county office, or special education local plan area~~

1 ~~operating in accordance with an approved local plan has met the~~
2 ~~state and federal standards for the provision of special education~~
3 ~~and related services that are, at a minimum, equal to the standards~~
4 ~~applicable to a nonpublic, nonsectarian school or agency that is~~
5 ~~certified in accordance with this article.~~

6 ~~SEC. 2.—~~

7 *SECTION 1.* Section 56505.2 of the Education Code is
8 amended to read:

9 56505.2. (a) A hearing officer may not render a decision that
10 results in the placement of an individual with exceptional needs in
11 a nonpublic, nonsectarian school, or that results in a service for an
12 individual with exceptional needs provided by a nonpublic,
13 nonsectarian agency, if the school or agency has not been certified
14 pursuant to Section 56366.1.

15 (b) A hearing officer shall consider Sections 56365, 56365.5,
16 56366, and 56366.1 during a due process hearing concerning an
17 issue of placement of an individual with exceptional needs in a
18 nonpublic, nonsectarian school, or services for an individual with
19 exceptional needs provided by a nonpublic, nonsectarian agency.

20 (c) A hearing officer may not render a decision that results in
21 the placement or reimbursement for the placement of an individual
22 with exceptional needs in a nonpublic, nonsectarian school, or that
23 results in a service or reimbursement for the service being
24 provided to an individual with exceptional needs by a nonpublic,
25 nonsectarian agency, if the district, county ~~office~~, *office*, or special
26 education local plan area operates a special education program in
27 accordance with an approved local plan, unless the ~~party seeking~~
28 ~~placement or service from a nonpublic, nonsectarian school or a~~
29 ~~nonpublic, nonsectarian agency proves, by a preponderance of the~~
30 ~~hearing officer finds, by a preponderance of the evidence, that an~~
31 ~~appropriate the public special education program or service is not~~
32 ~~available and the program operated offered by the district, county~~
33 ~~office~~, *office*, or special education local plan area is not able to
34 provide a free appropriate public education to the individual with
35 exceptional needs.